

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.1425 OF 2000

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not ?
3. Whether their lordships wish to see the fair copy of the judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge?

NATVARLAL KALIDAS VALAND
VERSUS
INSPECTOR GENERAL OF REGISTRATION

Appearance:

MR KETAN D SHAH for petitioner
MR PREMAL JOSHI for respondents

Coram: MR.JUSTICE S.K. Keshote,J

Date of decision: 19/12/2000

C.A.V. JUDGMENT

- #. Heard the learned counsel for the parties.

#. The petitioner retired on 30th June 1997 on attaining the age of superannuation. It is not in dispute that he was paid all his retirement benefits on 23rd September, 1999. In this petition, filed in the court on 1st March, 2000, the petitioner is praying for direction to the respondents to pay him interest on the delayed payment of amount of retiral benefits @ 18% p.a. from the date of retirement till the actual payment.

#. The claim of the petitioner for interest came to be rejected by respondents under their communication dated 14th October, 1999, which is also challenged in this petition. In support of his claim for 18% interest, the petitioner relied on the judgment of the Hon'ble Supreme Court in the case of Vijay L. Mehrotra v. State of U.P. & Ors. reported in 2000(2) SLR 686.

#. The learned counsel for the respondents opposed this petition.

#. The facts of the case are that the petitioner was serving as Photo Registrar with the Government Photo Registry, Ahmedabad. An F.I.R. came to be lodged against the petitioner with Madhavpura Police Station, Ahmedabad, about the incident of 11.4.89, wherein it was alleged against the petitioner that the petitioner misbehaved with Junior Assistant Manager, Class-III, and gave him a slap and also used abusive language. The petitioner was served with a notice dated 10th July, 1989 calling upon him to show cause as to why action should not be taken against him under the Gujarat Civil Services (Discipline & Appeal) Rules, 1971, for misbehaviour with the Government Officer. That notice was replied. Under the order dated 5.5.90 the petitioner was placed under suspension. That order has been challenged by petitioner in this court by filing special civil application No.3709 of 1990. That petition was admitted and ad-interim relief was granted directing the respondent therein not to implement the order of suspension. Thereafter the petitioner was taken back in service. The Metropolitan Magistrate, Ahmedabad, under his order dated 21.9.96, acquitted the petitioner from all the charges levelled against him. The petitioner was served with a chargesheet vide memo dated 27.6.97 of respondent. He retired on 30.6.97 as stated earlier. The inquiry officer has not found proved the alleged charge levelled against the petitioner.

#. In the facts of this case, when a chargesheet was pending against the petitioner, pending that chargesheet,

the petitioner could not have been entitled for retiral benefits. He would have been entitled only for provisional pension. It is not the case of the petitioner that he was not given provisional pension. The inquiry report has been submitted and what final order has been passed thereon is not made clear by the petitioner. A copy of the inquiry report is there on the record at page No.83. This report is dated 28.11.98. Whether the chargesheet was dropped or the petitioner was exonerated is not made clear. However, the respondents have right to give chargesheet to the petitioner which chargesheet has not been challenged by the petitioner and so long as the departmental inquiry is pending, he cannot be given all the retiral benefits. So there cannot be said to be any delay on the part of the respondents in releasing the retirementary benefits to the petitioner till 28.11.98. After this inquiry report, I fail to see any justification on the part of the respondents to withhold the retirementary benefits of the petitioner. It is also not case of the respondents in the reply that in the departmental inquiry, the petitioner has been punished. So it is a case where delay is clearly attributable to the respondents in finalizing and giving the retirementary benefits to the petitioner from 29.11.98 to 23.9.99. The petitioner is certainly entitled for interest for delayed payment of retirementary benefits from the period 29.11.98 to 22.9.99. It is well settled law that a retired employee should have been given all the retiral benefits. In this case it has not been done. There was justification with the respondents not to give all the retirementary benefits to the petitioner as on the date of his retirement as departmental inquiry was pending but after the inquiry report was submitted in which the inquiry officer has not found the charge proved against him, and no penalty has been given to the petitioner, on that date this amount has to be paid to the petitioner. In the case of an employee retiring after having rendered services to the respondents, it is expected that all the payment of retiral benefits is made on that date or soon thereafter. If for some reason or circumstances, payments could not be made on the date of retirement, there may be some justification with the respondents not to make payment of retiral benefits to the petitioner till 28.11.98, but thereafter, the respondents have no justification whatsoever to withhold these benefits of the petitioner. I do not find any reason or justification with the respondents for not making the payment of retirementary benefits to the petitioner on 28.11.98. Till 23rd September, 1999, the petitioner has suffered loss of interest on this heavy amount without

there being fault on his part and this loss has to be compensated by respondents.

#. In the result, this petition succeeds in part and it is hereby declared that the petitioner is entitled for interest on delayed payment of retirementary benefits 18% p.a. from 29th November, 1998 to 22nd September, 1999. The amount of interest payable to the petitioner is to be calculated within a period of one month from the date of receipt of certified copy of this order and payment thereof has to be made within a period of fifteen days next. The office needs not to send Writ of this order to the respondents. It is the duty of the petitioner to submit a certified copy of this order to the respondents. Rule is made absolute to the aforesaid extent. The respondents are directed to pay Rs.2,000/= as costs of this petition to the petitioner.

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(sunil)